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## SENATE BILL No. 400

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-28-28; IC 6-3.1-31; IC 22-4-25-3.

**Synopsis:** Accelerating growth grants and credits. Establishes the high growth business incentive grant and loan program to provide incentives for a high growth business with high skilled jobs to locate or expand in Indiana. Provides a tax credit against state tax liability for expenditures made by an employer to pay or reimburse an employee for the costs of basic skills education and training.

**Effective:** Upon passage; July 1, 2007.

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### Merritt

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January 11, 2007, read first time and referred to Committee on Tax and Fiscal Policy.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## SENATE BILL No. 400

A BILL FOR AN ACT to amend the Indiana Code concerning economic development.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 5-28-28 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

### **Chapter 28. High Growth Business Incentive Program**

**Sec. 1. As used in this chapter, "agreement" refers to one (1) or more documents constituting an agreement between the corporation and an applicant that sets forth the:**

**(1) applicant's intent to engage in a project; and**

**(2) terms and conditions under which a grant is awarded.**

**Sec. 2. As used in this chapter, "applicant" refers to a high growth company with high skilled jobs that offers to engage in a project.**

**Sec. 3. As used in this chapter, "board " refers to the governing body of the corporation.**

**Sec. 4. As used in this chapter, "corporation" refers to the Indiana economic development corporation.**

**Sec. 5. As used in this chapter, "fund" refers to the high growth**



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incentive fund.

Sec. 6. As used in this chapter, "grant or loan" refers to a high growth business incentive grant or loan awarded from the fund under this chapter.

Sec. 7. As used in this chapter, "high growth company with high skilled jobs" has the meaning set forth in IC 4-4-10.9-9.5.

Sec. 8. As used in this chapter, "project" means the location or expansion in Indiana of a business of a high growth company with high skilled jobs.

Sec. 9. (a) The high growth incentive fund is established to be used exclusively for the purposes of this chapter, including paying for the costs of administering this chapter. The fund shall be administered by the corporation.

(b) The fund consists of appropriations from the general assembly, gifts and grants to the fund, and other money placed in the fund by law.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for the purposes of this chapter.

Sec. 10. The corporation may award a grant or loan to an applicant for a project. The corporation may award the grant or loan to an applicant only if the corporation makes the following findings:

(1) The applicant's project will create new jobs that were not jobs previously performed by employees of the applicant in Indiana.

(2) The applicant's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment and strengthening the economy of Indiana.

(3) The political subdivisions affected by the project have committed significant local incentives with respect to the project.

(4) Receiving the grant or loan is a major factor in the applicant's decision to go forward with the project and not receiving the grant or loan will result in the applicant not creating new jobs in Indiana.

(5) Awarding the grant or loan will result in an overall positive fiscal impact to the state, as determined using the best

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1 available data to the corporation.

2 Sec. 11. The corporation, with the approval of the board, shall  
3 determine:

4 (1) the amount of the grant or loan to award for a project;  
5 and

6 (2) the terms and conditions under which the grant or loan is  
7 awarded.

8 Sec. 12. In determining the amount of the grant or loan that  
9 should be awarded to an applicant, the corporation may take into  
10 consideration the following factors:

11 (1) The economy of the county where the projected investment  
12 is to occur.

13 (2) The potential for the growth of the applicant's business in  
14 Indiana and the impact of the project on the economy of  
15 Indiana.

16 (3) The number of jobs and the incremental payroll  
17 attributable to the project.

18 (4) The capital investment and investment in intellectual and  
19 other intangible property that is attributable to the project.

20 (5) The amount of the average wage payable by the applicant  
21 after the project is placed in service.

22 (6) The costs to Indiana and the affected political subdivisions  
23 with respect to the project.

24 (7) The financial assistance and incentives that are otherwise  
25 provided by Indiana and the affected political subdivisions.

26 Sec. 13. Whenever a grant or loan is awarded to an applicant,  
27 the corporation shall enter into an agreement with the applicant.  
28 The agreement must set forth:

29 (1) the obligations of the corporation and the applicant;

30 (2) the terms and conditions under which the grant or loan is  
31 awarded to the applicant; and

32 (3) the remedies available upon default.

33 The agreement must specify that the agreement is binding on the  
34 applicant and the applicant's successors.

35 Sec. 14. An agreement may provide that repayment of a loan  
36 granted to the applicant is partly or fully waived upon the  
37 completion of one (1) or more conditions specified in the  
38 agreement.

39 Sec. 15. An agreement may provide that if the applicant defaults  
40 on the terms and conditions specified in the agreement, the state  
41 may offset any amount that would otherwise be due from the state  
42 to the applicant against any amount owed to the state for a default

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under the agreement.

**Sec. 16.** Subject to the terms of an agreement with an applicant, a grant or loan may be used for any of the following purposes:

(1) Payment of expenses incurred by the applicant or another entity in training employees who reside in Indiana and will be employed in the project.

(2) Payment of relocation expenses incurred by the applicant that are directly attributable to the project, including the cost of maintaining another facility in Indiana or another state until the facilities for the project are placed in service for a project.

(3) Payment of costs incurred by the applicant to purchase or pay lease rental payments on a capital lease for new or replacement equipment for the project.

(4) Payment of property assembly and development costs incurred by the applicant for the project, including:

(A) the purchase, lease, or construction of buildings and land;

(B) infrastructure improvements;

(C) site development costs; and

(D) design, survey, and other planning costs.

(5) Payment of any capital investment costs incurred by the applicant for the project.

(6) Payment of costs for improvement incurred by the applicant or another person related to transportation and access to the project.

(7) Payment of the principal and interest on bonds or loans or the establishment of a reserve for bonds or loans issued to pay any cost described in this section.

(8) Payment of the costs of obtaining a license to use a patent or other intangible property in Indiana at the project.

**Sec. 17.** The corporation may adopt rules and guidelines to implement this chapter.

SECTION 2. IC 6-3.1-31 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

**Chapter 31. Basic Skills Training Course Tax Credit**

**Sec. 1.** As used in this chapter, "credit" refers to a tax credit against state tax liability.

**Sec. 2.** As used in this chapter, "employer" has the meaning set forth in IC 22-4-7.

**Sec. 3.** As used in this chapter, "pass through entity" means a:

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(1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) partnership;

(3) limited liability company; or

(4) limited liability partnership.

Sec. 4. As used in this chapter, "qualified employee" means an individual in an employment relationship (as defined in IC 22-4-8-1) with a qualified employer.

Sec. 5. As used in this chapter, "qualified employer" means an employer that has been awarded a credit under section 8 of this chapter.

Sec. 6. As used in this chapter, "state tax liability" means a taxpayer's total state tax liability that is incurred under:

(1) IC 6-2.5 (the state gross retail and use tax);

(2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(3) IC 6-5.5 (the financial institutions tax); and

(4) IC 27-1-18-2 (the insurance premium tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 7. As used in this chapter, "taxpayer" means an individual or entity that has state tax liability.

Sec. 8. (a) The department of workforce development shall carry out a program to qualify employers for a credit of not more than fifty thousand dollars (\$50,000) per taxable year for fifty percent (50%) of a qualified employer's cost for all qualified employees' expenses for tuition and regularly assessed fees, not to exceed five hundred dollars (\$500) per qualified employee, that are incurred to complete basic skills training courses.

(b) The department of workforce development may award not more than five million dollars (\$5,000,000) per state fiscal year in tax credits under this chapter.

(c) The department of workforce development shall determine the:

(1) qualifications for an award of credits under this chapter; and

(2) amount of credits to be awarded to each qualifying employer.

Sec. 9. The department of workforce development shall certify the maximum amount of credit that a qualified employer is eligible for in a taxable year to the qualified employer.

Sec. 10. (a) A qualified employer that has a qualified employee

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who completes a basic skills training course and achieves a:

- (1) general education degree (GED) or high school equivalent degree as defined by the state department of education under IC 20-20-6; or
- (2) skill level gain in mathematics, reading, or computer literacy as determined by the department of workforce development;

in a taxable year is entitled to a credit against the qualified employer's state tax liability for the taxable year.

(b) The amount of the credit to which the qualified employer is entitled is the least of the following:

- (1) Fifty percent (50%) of a qualified employer's costs for the qualified employee's tuition expenses.
- (2) Five hundred dollars (\$500).
- (3) The balance of the credits awarded to the qualified employer for the taxable year that has not been applied toward the costs of another basic skills training course.

Sec. 11. If a pass through entity is entitled to a credit under this chapter but does not have state tax liability against which the credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a credit equal to:

- (1) the credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

Sec. 12. A taxpayer is not entitled to a carryforward, carryback, or refund of any unused credit.

Sec. 13. To receive a credit, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue or (in the case of the premiums tax) the department of insurance.. A qualified employer must provide a copy of the certification letter received from the department of workforce development when the credit is claimed on the taxpayer's tax return.

Sec. 14. Not more than ninety (90) days after the end of a state fiscal year, the:

- (1) department of state revenue; and
- (2) department of insurance;

shall certify to the department of workforce development the name of each taxpayer awarded a credit and the total amount of credits claimed on tax returns processed during the immediately preceding

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1 state fiscal year.

2 **Sec. 15. The department of workforce development shall**  
 3 **transfer the amount certified under section 9 of this chapter to the**  
 4 **state general fund as follows:**

5 (1) Fifty percent (50%) of the amount shall be transferred  
 6 from the skills 2016 fund established by IC 22-4-10.5-2.

7 (2) Fifty percent (50%) of the amount shall be transferred  
 8 from the special employment and training services fund  
 9 established by IC 22-4-25-1.

10 **Sec. 16. The department of workforce development shall audit**  
 11 **each taxpayer to ensure that a qualified employer's qualified**  
 12 **employees have completed the requirements that qualify a**  
 13 **taxpayer for a credit granted under this chapter.**

14 **Sec. 17. This chapter expires December 31, 2008.**

15 SECTION 3. IC 22-4-25-3 IS ADDED TO THE INDIANA CODE  
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 17 1, 2007]: **Sec. 3. (a) As used in this section, "fund" refers to the**  
 18 **special employment and training services fund created under**  
 19 **section 1 of this chapter.**

20 (b) Subject to the approval of the board, the commissioner may  
 21 allocate not more than two million dollars (\$2,000,000) from the  
 22 fund annually for competitively procured training programs in  
 23 furtherance of workforce development.

24 (c) This section expires December 31, 2010.

25 SECTION 4. [EFFECTIVE UPON PASSAGE] To carry out  
 26 IC 6-3.1-31 and IC 22-4-25-3, both as added by this act, the  
 27 department of workforce development may adopt temporary rules  
 28 in the manner provided for the adoption, filing, and publication of  
 29 emergency rules under IC 4-22-2-37.1. A temporary rule adopted  
 30 under this SECTION expires on the earlier of the following:

31 (1) The date that another temporary rule is adopted under  
 32 this SECTION to replace the previously adopted temporary  
 33 rule.

34 (2) January 1, 2009.

35 SECTION 5. An emergency is declared for this act.

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